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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/022,336	02/11/1998	WILLIAM E. M. JONES	21583-B-USA	5567

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EXAMINER

MAPLES, JOHN S

ART UNIT	PAPER NUMBER
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1745

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DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/022,336

Applicant(s)

JONES ET AL.

Examiner

John S. Maples

Art Unit

1745

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 12, 14, 15, 17-19, 22-25, 27-31, 33, 34, 36, 38, 40 and 42-50 ~~is/are~~ pending in the application.
- 4a) Of the above claim(s) 1-6 and 31 ~~is/are~~ withdrawn from consideration.
- 5) ☒ Claim(s) 40, 42 and 45-49 ~~is/are~~ allowed.
- 6) ☒ Claim(s) 7, 12, 15, 27, 30 and 44 ~~is/are~~ rejected.
- 7) ☒ Claim(s) 14, 17-19, 22-25, 28, 29, 33, 34, 36, 38, 43 and 50 ~~is/are~~ objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Catylators Limited (CL).

See page 1, lines 16-60 along with page 3, lines 9-15 along with all of the drawing figures in CL.

Applicant's arguments have all been considered but are not deemed persuasive.

Applicant argues that CL does not show a gas-permeable hydrophobic solid film encasing the container. The examiner respectfully disagrees. The outer layer 3 as seen in Figure 1 of CL is composed of, for example, glass. This layer is gas-permeable as lines 49-56 on page 1 of CL states and this layer also is hydrophobic and is a solid film. In addition, as seen in Figure 1 of CL, this glass layer encases the catalyst container-the container comprising member 2 the lead dioxide with alumina. The disclosure of CL thus meets the claim language of claim 15.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7, 12, 27, 30 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over German 2904842 ('842) in view of CL.

The '842 patent shows a lead acid battery having a pressure relief valve in the cover thereof having a catalyst container as part thereof. See Figure 2 of '842 along with the corresponding text. The only claimed element not shown by '842 is the makeup of the catalyst container. CL teaches the catalyst container as outlined in Section 3 of this action. It is noted that page 1, lines 16-25 of CL allows for the disclosed catalyst container to be placed in the top of a battery and even "to be attached to part of the cell" (line 22). To thus incorporate the catalyst container of CL in the cell of '842 would have been obvious to one of ordinary skill in this art because CL allows for such incorporation into a battery. In addition, the enhanced layer of flame resistant material in the container of CL would protect the same from flame in the battery of '842.

Applicant's arguments relating to the above rejection have all been considered but are deemed moot because applicant attacks the CL reference in the same way as for the rejection in section 2 of this action and thus does not bear repeating.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 703-308-1795. The examiner can normally be reached on Monday-Thursday from 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John S. Maples
Primary Examiner
Art Unit 1745

JSM
April 26, 2003